

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

JOE HENRY MACK,

Plaintiff,

V.

MICHAEL ASTRUE,
Commissioner of the Social Security
Administration,

Defendant.


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CIVIL ACTION NO. H-09-3337

ORDER ADOPTING MEMORANDUM AND RECOMMENDATION AND DISMISSING CASE

This court has reviewed the Memorandum and Recommendation of the United States Magistrate Judge signed on May 14, 2010 and made a *de novo* determination. Rule 72(b), Fed. R. Civ. P.; 28 U.S.C. § 636(b)(1)(C); *United States v. Wilson*, 864 F.2d 1219 (5th Cir. 1989). Based on the pleadings, the record, and the applicable law, this court adopts the Memorandum and Recommendation as this court's Memorandum and Order. This court finds and concludes that the plaintiff failed to exhaust his administrative remedies and that no basis is present to avoid the exhaustion requirement. Accordingly, it is ordered that the defendant's motion to dismiss is granted. An order of dismissal is separately entered.

SIGNED on June 2, 2010, at Houston, Texas.


Lee H. Rosenthal
United States District Judge